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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,408	06/27/2001	Charles Wilson Colman	17041	2161

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KIMBERLY-CLARK WORLDWIDE, INC.
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EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/892,408

Applicant(s)

COLMAN ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 13 and 14. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-10, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. With respect to Claims 1 and 15: the phrase “an absorbent composite located between said topsheet and said backsheet, comprising an upper layer...” is indefinite. Is it the personal care product that comprises the upper layer and lower layer, or is it the composite that contains the upper and lower layers?

5. With respect to Claim 15: the phrase “comprising fully debonded pulp” is indefinite. How can the pulp be fully debonded when a binder is incorporated into the pulp?

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (5,525,407).

9. With respect to Claims 1-10, 15: Yang discloses the use of an absorbent composite that can be used in such things as diapers (which the examiner considers training pants to be diapers), incontinent pads, sanitary napkins and bandages (column 1, lines 14-16), and where the products have the absorbent composite located between a topsheet and backsheet (column 1, lines 20-24). Yang discloses the absorbent composite to be made of multiple layers, including an upper layer (which the examiner is considering the receiving layer to be the upper layer), and a lower layer (which the examiner is considering the wicking layer to be the lower layer). Yang discloses the upper layer to be 88% pulp fiber and 12% binder fibers and having a density of between 0.002-

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0.15g/cc. Yang discloses the lower layer to have 94% pulp fibers and 6% binder fibers, and having a density of 0.1-0.4g/cc (see Figure 5, and column 8, lines 12-19).

10. Yang discloses the use of the density of the composite to increase from the upper layer to the lower layer (column 8, lines 21-24), and due to the fact that the compositions are different for each layer then there would be a difference in basis weight, however Yang does not specifically disclose the basis weight of each of the layers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have to basis weight of the upper layer be between 20-75gsm, and the basis weight of the lower layer to be between 120-200gsm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

11. With respect to Claims 11-13: Yang discloses the use of an absorbent composite that can be used in personal care products, where the absorbent composite to be made of multiple layers, including an upper layer (which the examiner is considering the receiving layer to be the upper layer), and a lower layer (which the examiner is considering the wicking layer to be the lower layer). Yang discloses the upper layer to be 88% pulp fiber and 12% binder fibers and having a density of between 0.002-0.15g/cc. Yang discloses the lower layer to have 94% pulp fibers and 6% binder fibers, and having a density of 0.1-0.4g/cc (see Figure 5, and column 8, lines 12-19).

12. Yang however does not disclose both layers having 90% pulp and 10% binder. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have both layers have 90% pulp and 10% binder fibers, since it has been held that discovering an

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optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

13. Yang discloses the use of the density of the composite to increase from the upper layer to the lower layer (column 8, lines 21-24), and due to the fact that the compositions are different for each layer then there would be a difference in basis weight, however Yang does not specifically disclose the basis weight of each of the layers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have to basis weight of the upper layer be 50gsm, and the basis weight of the lower layer to be 150gsm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

14. With respect to Claim 14: Column 2, lines 13-16.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Seger et al. (5,800,416) discloses the use of a multiple layer core with cellulose pulp, binder and where density and basis weight can be varied, Lantz et al. (5,836,930), Everett et al. (6,347,214) and Dragoo et al. (5,460,622) disclose the use of an absorbent article with the density of the lower layer greater than the upper layer, Halabisky et al. (5,837,627) and Schilkowski (6,407,309) disclose the use of an absorbent article with pulp and binder, DiPalma et al. (5,649,916) discloses the use of the wicking capacity increasing from the upper layer to lower layer Levesque (4,226,237) discloses the use of multiple layer cores where the lower layer has a greater basis weight than the upper layer.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579.

The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw 
May 5, 2003


WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700